criminal procedure, including the rules of evidence applicable in criminal cases. The second deals with the federal substantive law of crimes, and contains the federal criminal code with a brief commentary upon each section, together with the more important modern acts under which prosecutions are frequently brought and the interpretations of these as outlined in federal and state decisions. The third volume sets forth various typical forms for use in the federal courts. Mr. Zoline has produced rather a practitioner's handbook than a scholar's treatise. There is no careful analysis nor critical examination of the subject; instead the rules of law and leading principles are set forth as interpreted by the courts, and the pertinent statutes and legal interpretations of them are succinctly stated. Citations of the more important federal and state cases are collected in footnotes. One cannot help regretting that in innumerable places the treatment of the subject is not more comprehensive and full; but perhaps the scholar's loss is the practitioner's gain, who wants a succinct statement of the general law quickly accessible.

It is from the latter viewpoint after all that the work should be judged. From that standpoint the book is to be welcomed as a comprehensive, up-to-date, and very convenient, if somewhat general, practitioner's handbook on federal criminal law.

F. B. S.

THE FEDERAL INCOME TAX. Edited by R. M. Haig. Introduction by Edwin R. A. Seligman. New York: Columbia University Press. 1921. [pp. xii, 261.

These lectures were read at Columbia University in December, 1920, as a special course on income-tax problems offered under the auspices of the School of Business. They deal with the definition of income, the realization of income, inventories, and closed transactions; with the scope of legislative competence to determine what is income, and the effect of treasury regulation; with deductions (including an allowance for depletion) from gross income; with consolidated returns and certain questions of procedure.

Professor Haig believes that the conception of income by the economist is close to the popular conception. He suggests this definition: "the money value of the net accretion to one's economic power between two points of time." This would include gifts, devises and bequests, and it is submitted that the popular conception of income does not include these. But it would not be beyond the bounds of reason, or out of harmony with popular conceptions, to define income as including the money value of the net increase, between two points of time, of the taxpayer's economic power, (a) susceptible of measurement and (b) resulting from his property or labor.

Professor Powell believes that the checks on legislative competence in the matter are not substantial. The recent decision of the Supreme Court that capital increment, when realized by a sale, is taxable as income is the result predicted by him. But there remain questions as to the taxability of unrealized gains which we should think were of large importance.

Mr. Field's lecture on the legal force and effect of Treasury interpretation is a gem.

During 1919 many business units made great paper profits through an increase in the value of their inventories; they were required to pay taxes upon such profits; then in 1920 the value of the inventories collapsed, so that the result is that taxes have been paid upon unrealized profits. And yet the accountants for business units were very insistent that accountings should be made upon an accrual basis, and several provisions in the 1918 law were incorporated to meet their wishes. The lectures of Mr. Ballantine on inventories and by Professor Adams on the realization of income are very valuable.

Colonel Montgomery's lecture on reorganizations and the closed transaction lacks the quiet power which most of the other lectures show.

On the whole, the lectures are a valuable contribution to the intelligent consideration of the income-tax problems.

EDWARD H. WARREN.

THE CASE OF REQUISITION. By Leslie Scott and Alfred Hildesley. With an introduction by Sir John Simon. Oxford: Clarendon Press. 1920. pp. xxiv, 307.

This book examines the constitutional questions involved in the recent decision of the House of Lords in *The Attorney-General* v. *De Keyser's Royal Hotel, Ltd.*,[1] which affirmed a decision of the Court of Appeal.[2] The Crown had taken over a hotel for administrative purposes connected with the war. The owner's claim for compensation as a matter of right was resisted on grounds of prerogative, and also on the basis of the Defence of the Realm Acts. It was held that the petitioner was entitled to recover *ex lege* and not merely *ex gratia*.[3]

Prior to this case it seemed to be a generally accepted proposition that, in the absence of express constitutional limitations, such as exist in the Fifth and Fourteenth Amendments of the Constitution of the United States, the sovereign could take the property of a subject for purposes of national defence without compensation, and that the subject had no redress as a matter of right. The Court of Appeal had so held in 1915 in *In re a Petition of Right*.[4] Properly considering himself bound by this decision, the judge before whom the petition came in the case of *Attorney-General* v. *De Keyser's Royal Hotel, Ltd.* decided against the suppliant. The Court of Appeal went more thoroughly into historical records and came to the conclusion that since the Crown had never taken the subject's land for the defence of the realm without compensation no such prerogative exists. Instead of overruling the prior decision, the court felt it necessary, in order to permit the petitioner to recover, to distinguish the case in three respects from that decided in 1915. The House of Lords in affirming the decision of the Court of Appeal recognized that the distinctions were untenable and in effect overruled *In re a Petition of Right*.

". . . The official contention that the Crown could acquire compulsorily the use of a subject's land for the purposes of national defence without incurring any obligation to pay for it was shown to be without historical or legal foundation, and the House of Lords by a unanimous judgment laid it down that while public necessity may justify expropriation it cannot destroy the subject's right to be paid for the land so taken" (p. xviii). ". . . . The judgment in the Case of Requisition . . . teaches . . . the lesson that the foundations of constitutional law lie deeply embedded in ground which is in the joint occupation of historians and lawyers, and that the protection of private citizens against unfounded claims by the Executive is one of the most valuable functions of the judiciary" (p. xxiv).

The above passages, quoted from the introduction, are perhaps somewhat extravagant in light of the *ratio decidendi* of the Lords. The right to recover was based on statutory provisions. The learned judges concurred substantially in the view that Acts of Parliament had curtailed the royal prerogative. "I should prefer to say that when such a statute expressing the will and in-

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[1] [1920] A. C. 508.

[2] [1919] 2 Ch. 197.

[3] For a discussion of the decision of the Court of Appeal see 33 HARV. L. REV. 713, 735.

[4] [1915] 3 K. B. 649.